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**PHILLIPS, SPALLAS & ANGSTADT LLC**  
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*Attorneys for Defendant  
Wal-Mart Stores, Inc.*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MELISSA STRAWDER-McCURRY,

Plaintiff,

v.

WAL-MART STORES, INC.; DOES I through  
X, Inclusive,

Defendants.

Case No.:

**[District Court, Clark County Case No.  
A-12-673600-C, Dept No. XVIII]**

**DEFENDANT WAL-MART STORES,  
INC.'S PETITION FOR REMOVAL**

**[JURY DEMAND]**

**PETITION FOR REMOVAL OF CIVIL ACTION**

COME NOW, Petitioner WAL-MART STORES, INC., by and through its attorneys, the law  
offices of PHILLIPS, SPALLAS & ANGSTADT, LLC, hereby submits and respectfully shows:

I.

Petitioner WAL-MART STORES, INC. ("WALMART" or "Petitioner") is a Defendant in the  
above-entitled action.

II.

The above-entitled action was commenced in the Eighth Judicial District Court in and for  
Clark County, District of Nevada, and is now pending in that Court. Process was served upon  
Petitioner through a process server on or about March 21, 2013. Copies of Plaintiff's Summons and  
Complaint are attached hereto as Exhibit "A" and "Exhibit B," respectively.

Plaintiff's Complaint asserts damages claims for: (1) *past* "pain, suffering, impairment,

1 surgery, disability [] in excess of \$50,000” (Complaint, ¶12: 6-7), (2) damages for “severe and grave  
2 injuries to her body” (Complaint, ¶11:5), (3) *future* pain, suffering, impairment and disability  
3 (Complaint, ¶12:7-8), (4) past medical expenses (Complaint, ¶13), (5) future medical expenses  
4 (Complaint, ¶12:8-9), (6) past lost earnings (Complaint, ¶14:13-16), and (7) “a loss of earning  
5 capacity” (Complaint, ¶14:16). Plaintiff also seeks attorney’s fees and costs. (Complaint, ¶15).

6  
7 Thus, Plaintiff seeks total damages claims satisfying the \$75,000 jurisdictional threshold  
8 established by 28 United States Code Section 1146(b).

9 III.

10 This Petition is filed timely pursuant to 28 United States Code Section 1446(b).

11 IV.

12 This action is a civil action over which this Court has jurisdiction pursuant to 28 United States  
13 Code Section 1332(a), and is one which may be removed to this Court by Petitioner, pursuant to 28  
14 United States Code Section 1441(a).

15 V.

16  
17 Petitioner is informed, believes, and thereon alleges that Plaintiff Melissa Strawder-McCurry  
18 is, and was at all times relevant herein, a citizen of the State of Nevada.

19 VI.

20  
21 Petitioner WAL-MART STORES, INC. is, and was at the time this action was commenced, an  
22 Arkansas corporation with its principal place of business in the State of Arkansas.

23 VII.

24 The above-entitled civil action is for personal and economic damages Plaintiff allegedly  
25 incurred as a result of an incident at a Walmart Store in Las Vegas, Nevada, on December 17, 2010.

26 VIII.

27 A copy of Defendant’s Petition For Removal, seeking removal of the above-entitled action to  
28

1 the United States District Court, District of Nevada, together with a copy of the Summons and  
2 Complaint, has been filed with a Notice Of Removal To Federal Court with the Eighth Judicial  
3 District Court in and for Clark County, Nevada.

4  
5 IX.

6 Copies of all pleadings and papers served upon Petitioner in the above-entitled action are filed  
7 herewith.

8 X.

9 This Petition is filed with this Court within thirty (30) days after Petitioner was served with  
10 Plaintiff's Complaint in this matter. Plaintiff's Complaint is the "first paper" from which Petitioner  
11 could ascertain that the amount in controversy in this action exceeds \$75,000, as Plaintiff seeks past  
12 general damages in excess of \$50,000, plus future general damages, past medical expenses, future  
13 medical expenses, lost earnings, a loss of earning capacity and claims of "severe, grave disability".  
14 *See* 28 U.S.C. § 1446(b); *see also* 28 U.S.C. § 1332(a); *see also Lockett v. Delta Airlines, Inc.*, 171  
15 F.3d 295, 298 (5th Cir. 1999) (holding that it was facially apparent from plaintiff's Complaint that the  
16 claim exceeded \$75,000 where plaintiff alleged property damage, travel expenses, an emergency  
17 ambulance trip, a six-day hospital stay, pain and suffering, humiliation and a temporary inability to do  
18 housework); *see White v. FCI USA, Inc.*, 319 F.3d 672, 674 (5th Cir. 2003) (holding that it was  
19 facially apparent that plaintiff's wrongful termination claim exceeded \$75,000 based on her lengthy  
20 list of compensatory and punitive damages combined with a claim for attorney fees in her Complaint);  
21 *see also Crum v. Circus Circus Enters.*, 231 F.3d 1129, 1131 (9th Cir. 2000) (reversing dismissal for  
22 lack of subject matter jurisdiction, relying in part on estimated future medical expenses to determine  
23 the amount in controversy).

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25 //

***PRAYER***

WHEREFORE, Petitioner WAL-MART STORES, INC. prays that the above-entitled action be removed from the Eighth Judicial District Court in and for Clark County, Nevada, to this Court.

DATED this 10th day of April, 2013.

**PHILLIPS, SPALLAS & ANGSTADT LLC**


/s/ Brenda Entzminger

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**Janet Markley**  
**1000 Nevada Way, #102**  
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Brenda Entzminger

NOTARY PUBLIC in and for  
said County and State



**CERTIFICATE OF SERVICE**

I hereby certify that on the 10th day of April, 2013, I served a true and correct copy of the foregoing, **DEFENDANT WAL-MART STORES, INC.'S PETITION FOR REMOVAL [JURY DEMAND]**, by U.S. Mail, in a sealed envelope, first-class postage fully prepaid, addressed to the following counsel of record, at the address listed below:

ATTORNEY OF RECORD	TELEPHONE/FAX	PARTY
Janet Markley Law Offices of Janet Markley 1000 Nevada Way, #102 Boulder City, Nevada 89005	Telephone: (702) 294-6529	Plaintiff

/s/ Ivana Aguayo

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An Employee of PHILLIPS, SPALLAS & ANGSTADT LLC